

**STATE OF NEBRASKA
DEPARTMENT OF INSURANCE
941 O STREET, SUITE 400
LINCOLN, NE 68508
Switchboard (402) 471-2201
Licensing Division (402) 471-4913**

**REQUIREMENTS AND PROCEDURE FOR OBTAINING A
CORPORATE INSURANCE CONSULTANT LICENSE
RESIDENT AND NONRESIDENT**

QUALIFICATIONS

1. Applicant shall be competent, trustworthy, financially responsible, and of good personal and business reputation.
2. The director may issue an insurance consultant license in two areas: Property and Casualty insurance; and Life, Health and Annuities. A person may become licensed in either one or both of such areas.
3. No license shall be granted to a corporation, partnership, or limited liability company unless they designate a licensed consultant who shall have full responsibility for all insurance consulting transactions of the corporation, partnership or limited liability company within the state. Such designated consultant shall be an officer of the corporation or a member of the partnership, or a limited liability company and shall have a substantial interest in or be an active participant in the management of the corporation, partnership, or limited liability company. If a corporation, partnership, or limited liability company has more than one office, it shall designate a licensed consultant for each office.
4. Any individual associated with a licensed corporation, partnership, or limited liability company who acts as an insurance consultant shall be a licensed consultant.

PROCEDURE

Submit Form DOI 4-801-C, Application for Insurance Consultant's License, (Corporation or Partnership) after the applicant has met all of the qualification requirements, and a check in payment of the license fee. Refer to Schedule of Fees on the reverse side.

CHANGE OF ADDRESS

Any person, corporation, partnership or limited liability company licensed under the Insurance Consultant's Act shall notify the Department within thirty (30) days of any change of residential or business address. Form DOI-9110 must be submitted to report a change of address.

**SCHEDULE OF FEES
INSURANCE CONSULTANTS LICENSE
RESIDENT AND NONRESIDENT**

Initial Fee.....	\$37.50
Two-Year	\$75.00
Change of Name/Change of Address.....	\$ 5.00

DURATION OF LICENSE AND RENEWAL

All corporate, partnership, and limited liability company licenses shall expire on June 30th of each year.

Article 26
INSURANCE CONSULTANTS

Section

44-2601 to 44-2605. Repealed

44-2606	Applicability of definitions.
44-2607	“Insurance consultant”
44-2608	“Risk manger”
44-2609	“Agent”
44-2610	“Person”
44-2611	“Pure risk”
44-2612	“Director”
44-2613	“Department”
44-2614	Licensing requirement
44-2615	Licensing procedure
44-2616	Exemptions from licensing requirement
44-2617	Corporate, partnership, or limited liability company license
44-2618	Nonresident consultant
44-2619	Nonresident applicant
44-2620	Service of process: nonresident consultant
44-2621	Qualifications for License
44-2622	Licensing examination
44-2623	Examination and reexamination fees
44-2624	Reexamination
44-2625	Nonresident applicant: reciprocal licensing agreements
44-2626	Denial of license
44-2627	License contents; expiration
44-2628	Annual License fee
44-2629	Consultant’s obligation
44-2630	Contracts: enforceability and contents
44-2631	Unlawful commissions or compensation
44-2632	Contract approval by department
44-2633	License revocation or suspension
44-2634	Penalties for violations
44-2635	Director’s regulatory authority
44-2635	

44-2601 to 44-2605. Repeals. Laws 1980, LB481, § 33

44-2606 Definitions; where found.

For the purpose of sections 44-2606 to 44-2635, unless the context otherwise requires, the definitions found in sections 44-2607 to 44-2613 shall be used.

44-2607 Insurance consultant, defined.

Insurance consultant shall mean any person who, for a fee, engages in the business of offering to the public any advice, counsel, opinion, or service with respect to insurable risks, or concerning the benefits, coverages, or provisions under any policy of insurance that could be issued in this state, or involving the advantages or disadvantages of any such policy of insurance, or any formal plan of managing pure risk.

44-2608 Risk manager, defined.

Risk manager shall mean any person who is a full-time employee who deals with matters of insurance within the scope of his or her employment, including the supervision of employee benefits.

44-2609 Agent, defined.

Agent shall mean and include insurance agent, surplus lines licensee, and broker.

44-2610 Person, defined.

Person shall mean any individual, corporation, partnership, limited liability company, or other entity.

44-2611 Pure risk, defined.

Pure risk shall mean any risk that involves the chance of loss or no loss only with no possibility of gain.

44-2612 Director, defined.

Director shall mean the Director of Insurance.

44-2613 Department, defined.

Department shall mean the Department of Insurance.

44-2614 Insurance consultant; acts requiring licensure.

No person shall, in or on advertisements, cards, signs, circulars, letterheads, or elsewhere or in any other manner by which public announcements are made, use the title insurance consultant, public adjuster, or any similar title or any title, word, combination of words, or abbreviation indicating that he or she gives or is engaged in the business of offering to the public any advice, counsel, opinion, or service with respect to insurable risks, concerning the benefits, coverages, or provisions under any policy of insurance that could be issued in this state, or involving the advantages or disadvantages of any such policy of insurance, unless such person holds a license as an insurance consultant under sections 44-2606 to 44-2635.

44-2615 Insurance consultant; license; violation; penalty.

No person shall act as an insurance consultant until he or she has been licensed as provided by sections 44-2606 to 44-2635. Any person violating this section shall be guilty of a Class IV misdemeanor.

44-2616 Person; not acting as insurance consultant; when.

A person shall not be deemed to be acting as an insurance consultant under any of the following circumstances:

- (1) If a licensed agent gives advice incidental to the normal course of the agent's insurance business and does not charge a fee other than commissions received from insurance written;
- (2) If any attorney, actuary, certified public accountant, teacher of insurance, or trust officer of a bank consults during the normal course of his or her usual business, and only incidental to such business; or
- (3) If a person employed as a risk manager consults during the normal course of his or her full-time employment to the company by which such person is employed.

44-2617 Corporation, partnership, or limited liability company; licensed as insurance consultant; requirements.

Any corporation, partnership, or limited liability company engaged in the business of insurance consulting may become licensed as an insurance consultant. No license shall be granted to a corporation, partnership, or limited liability company unless the corporation, partnership, or limited liability company designates a licensed consultant who shall have full responsibility for all insurance consulting transactions of the corporation, partnership, or limited liability company within the state. Such designated consultant shall be an officer of the corporation or a member of the partnership or limited liability company and shall have a substantial interest in or be an active participant in the management of the corporation, partnership, or limited liability company. If a corporation, partnership, or limited liability company has more than one office, it shall designate a consultant for each office. In the event a designated consultant of a licensed corporation, partnership, or limited liability company shall either leave the corporation, partnership, or limited liability company or have his or her license revoked, the corporation, partnership, or limited liability company shall have sixty days after such revocation in which to designate another qualified licensed consultant, or have its license revoked. Any individual associated with a licensed corporation, partnership, or limited liability company who acts as an insurance consultant shall be a licensed consultant.

44-2618 Nonresident consultant; rights and privileges.

A nonresident applicant may qualify for a license under sections 44-2606 to 44-2635 as a nonresident consultant. A license issued to a nonresident shall grant the same rights and privileges offered a resident licensee, except that whenever, by the laws, rules, or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or other requirements are imposed upon residents of Nebraska who are nonresident applicants or licensees of such other state or jurisdiction in addition to or in excess of those imposed on nonresidents under sections 44-2606 to 44-2635, the same requirements shall be imposed upon the residents of such other state or jurisdiction.

44-2619 Nonresident consultant; applicant; examination.

Any nonresident applicant whose resident state does not license insurance consultants may qualify for a license as a nonresident consultant in this state only upon examination, except as provided in section 44-2625.

44-2620 Nonresident consultant; personal jurisdiction.

Obtaining a nonresident license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such a person in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's consulting business in Nebraska.

44-2621 Insurance consultant's license; type; fee; qualifications.

Every individual applicant for a license under sections 44-2606 to 44-2635 shall have attained the age of majority, shall be competent, trustworthy, financially responsible, and of good personal and business reputation, and shall have been licensed as an agent, broker, or consultant in this state or another state for the three years immediately preceding the date of application or have successfully completed a specific program of study which has a broad national or regional recognition as determined by the director. Application shall be made to the director on forms prescribed by the director and shall be accompanied by a license fee as established by the director not to exceed one hundred dollars for each resident individual license, not to exceed one hundred fifty dollars for each nonresident individual license, not to exceed one hundred fifty dollars for each resident corporate, partnership, or limited liability company license, and not to exceed one hundred fifty dollars for each nonresident corporate, partnership, or limited liability company license. If the applicant is an individual, the application shall include the applicant's social security number. The director may issue an insurance

consultant's license in two areas: Property and casualty insurance; and life, health, and annuities. A person may become licensed in either one or both of such areas.

44-2622 Insurance consultant's license; examination.

All individual applicants for licensure under sections 44-2606 to 44-2635 shall be examined by the director in such manner and form as the director prescribes. The applicant shall pass the examination with a grade determined by the director to indicate satisfactory knowledge and understanding of the area of insurance for which the applicant seeks qualification as a consultant.

44-2623 Insurance consultant's license; examination; reexamination; fee.

An applicant for a license under sections 44-2606 to 44-2635 shall pay or cause to be paid an examination fee as established by the director in advance of such examination. The fee shall not exceed one hundred dollars and shall cover all of the examinations given to the applicant at the same time and place. The fee shall not be refunded to the applicant. Examination fees collected under sections 44-2606 to 44-2635 shall be remitted to the State Treasurer for credit to the Department of Insurance Cash Fund unless the director contracts with an independent testing organization, in which case the applicant shall pay the examination fee directly to such independent testing organization and the fee shall be the amount charged by the testing organization.

44-2624 Insurance consultant; reexamination; when.

The director may require a consultant, after notice and hearing and a finding that the consultant lacks competency, to submit to reexamination if the director has reason to believe that the consultant lacks competence.

44-2625 Nonresident applicant; reciprocity.

The director may exempt from examination any nonresident applicant whose resident state or province has examination standards substantially the same as those of Nebraska, if such state or province has been recognized by the director by reciprocal arrangement. The director may accept, in lieu of examination of such nonresident, a certificate of the director or commissioner of the other state or province to the effect that the applicant is licensed in the state or province in a capacity similar to that for which a license is sought in this state. In instances when a reciprocal agreement has not been reached, the director shall require an examination.

44-2626 Insurance consultant's license; denial; when.

The director may refuse to issue a consultant's license to an applicant if such applicant has failed to comply with any prerequisite for the issuance of such license, has made a material misstatement in the application for license, or has demonstrated untrustworthiness, financial irresponsibility, or incompetency.

44-2627 Insurance consultant's license; contents; expiration; reissuance.

(1) The license shall state the name and resident address of the licensee, date of issuance, whether the licensee is qualified to consult in property and casualty, life, health, and annuities, and such other information as the director considers proper.

(2) All corporate, partnership, and limited liability company licenses shall expire on June 30 of each year, and all individual licenses shall expire on the last day of the month of the licensee's birthday in the first year after issuance in which his or her age is divisible by two and such individual licenses may be reissued within the ninety-day period before their expiration dates and all individual licenses also may be reissued within the thirty-day period after their expiration dates upon payment of a late reissuance fee as established by the director not to

exceed one hundred twenty-five dollars in addition to the applicable fee otherwise required for reissuance of individual licenses as established by the director pursuant to section 44-2621. All individual licenses reissued within the thirty-day period after their expiration dates pursuant to this subsection shall be deemed to have been reissued before their expiration dates. The department shall establish procedures for the reissuance of licenses.

(3) Every licensed consultant shall notify the department within thirty days of any change in his or her residential or business address.

44-2628 Insurance consultant's license; fee.

A person holding a license issued under sections 44-2606 to 44-2635 shall pay to the department the required license fee as prescribed by section 44-2621. The department shall not issue a license to any person who fails to pay the required license fee when it becomes due except as otherwise provided in subsection (2) of section 44-2627.

44-2629 Insurance consultant; obligation.

A consultant is obligated, under his or her license, to serve with objectivity and complete loyalty the interests of his or her client and to render his or her client such information, counsel, and service as within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the client's insurance needs and interest.

44-2630 Insurance consultant; contract or agreement; conditions.

No contract or agreement with an insurance consultant shall be enforceable by such consultant unless it is in writing and executed in duplicate by the person to be charged or by the authorized representative of such person. The agreement shall define the subject matter of the consulting services, outline the nature of the work to be performed by the consultant, and state the fee for the work. The consultant shall retain a copy of the agreement for not less than five years after completion of the services.

44-2631 Insurance consultant; commission or compensation; receipt; unlawful; when.

It shall be unlawful for any consultant, or any agency or sales organization with which he or she is connected, to receive any part of any commission or compensation paid by an insurer or agent of an insurer in connection with the sale or writing of any insurance which is within the subject matter of any consulting service performed prior to the sale of insurance and for which such consultant has contracted to receive a fee. For purposes of this section, a renewal of insurance shall not be considered a sale of insurance.

44-2632 Insurance consultant; contract; department approval; procedure.

If a consultant is required to obtain approval of a contract by the department, such consultant shall complete and mail to the department a copy of the contract, attached to a departmental form, specifying the nature of the work to be performed, the fee arrangement, and an explanation of the necessity for charging a consulting fee. The director may refuse to approve any contract if the potential conflict of interest outweighs any benefit received by the client. If disapproval is not received by the consultant within ten days, the contract shall be considered approved.

44-2633 Insurance consultant's license; revoked; suspended; placed on probation; grounds.

The director may revoke, suspend, or place on probation, for such period as he or she may determine, the license of any consultant if, after notice and hearing, he or she determines that the licensee has:

- (1) Violated any of the provisions of sections 44-2606 to 44-2635, any insurance laws, or any lawful rule, regulation, or order of the director or of a director or commissioner of another state or province;
- (2) Recommended the purchase of insurance, annuities, or securities from any authorized insurer in which the consultant or any member of his or her immediate family holds an executive position or holds a substantial interest;
- (3) Received compensation in any form from any agency or other insurance organization for recommending such agency or organization to the consultant's client;
- (4) Knowingly and willfully misrepresented the terms of any actual or proposed insurance contract;
- (5) Been found guilty of any unfair trade practice or of fraud;
- (6) Been convicted of any felony, or convicted of a Class I, II, or III misdemeanor evidencing that such licensee is not worthy of the public trust;
- (7) Had a consultant's license suspended, revoked, or placed on probation in any other state;
- (8) Failed to submit to a reexamination for competence or failed to pass such examination;
- (9) Demonstrated incompetency, untrustworthiness, or failure to comply with the provisions of his or her insurance consultant's contract; or
- (10) Obtained the license through misrepresentation, fraud, or any cause for which issuance could have been refused had it been known to the director at the time of issuance.

44-2634 Violations; administrative fine; enforcement.

Any person violating sections 44-2606 to 44-2635 may after notice and hearing be subject to an administrative fine of not more than five hundred dollars per violation. Such fine may be enforced in the same manner as civil judgments and may be in addition to any denial, suspension, probation, or revocation of a license. Any person charged with a violation of sections 44-2606 to 44-2635 may waive his or her right to a hearing and consent to such discipline as the director determines to be appropriate. All hearings held pursuant to sections 44-2606 to 44-2635 shall be governed by the Administrative Procedure Act.

44-2635 Rules and regulations.

The director may adopt and promulgate reasonable rules and regulations for the implementation and administration of sections 44-2606 to 44-2635.

**STATE OF NEBRASKA
DEPARTMENT OF INSURANCE
941 'O' STREET, SUITE 400
LINCOLN, NEBRASKA 68508-3639
(402) 471-2201**

**APPLICATION FOR INSURANCE CONSULTANT'S LICENSE
(CORPORATION OR PARTNERSHIP)**

THIS APPLICATION MUST BE COMPLETED IN FULL BY THE APPLICANT AND SIGNED. YOU HAVE THE DUTY TO PROVIDE CORRECT ANSWERS TO ALL QUESTIONS IN THE APPLICATION AND BE ADVISED THAT THIS APPLICATION MAY BE DENIED IF ANY ANSWER IS INCORRECT OR INCOMPLETE. IF ADDITIONAL SPACE IS NEEDED IN ANSWERING ANY QUESTIONS, ATTACH THE INFORMATION TO THIS FORM. COMPLETE 3 PAGES OF THIS APPLICATION.

We hereby apply for a license to act as:

Life and Health Insurance Consultants _____ Corporation _____ Resident _____
Property and Casualty Insurance Consultants _____ Partnership _____ Nonresident _____

1. Name of Applicant _____
2. Federal Identification Number _____
3. Business Address _____

Telephone Number _____

4. List below the names and provide information for all licensed consultants which the corporation or partnership hereby designates to transact the business of insurance consulting within the State. Such designated consultant shall be an officer of the corporation or a member of the partnership and shall have a substantial interest in or be an active participant in the management of the corporation or partnership. If a corporation or partnership has more than one office, you must designate a licensed consultant for each office.

<u>Name</u>	<u>Business Address</u>	<u>Social Security Number</u>	<u>Title or Position</u>	<u>Insurance Consultant's License #</u>

In the event a designated consultant of a licensed corporation or partnership shall either leave the corporation or partnership or have his or her license revoked, the corporation or partnership shall have sixty days in which to designate another qualified licensed consultant, or have its license revoked.

5. Has any designated consultant:

- (a) been licensed in any other state(s) to transact any form of insurance or consulting? ____ If yes, give dates and state(s) _____.
- (b) been terminated or discharged by an insurance company or consulting firm? ____ If yes, give the company or firm and the reason for such termination or discharge _____

_____.
- (c) been convicted or pled nolo contendere (no contest) to any misdemeanor or felony or currently have pending misdemeanor or felony charges filed against you? (Misdemeanor does not mean minor traffic violations.) If yes, give type and nature of each offense as well as the dates and places of each conviction. _____.
- (d) been called before any state for any alleged violations of insurance laws or consulting laws? ____ If yes, give full particulars _____.
- (e) has any state ever refused, revoked, suspended or terminated your insurance or consultant license(s)? ____ If yes, give full particulars _____.
- (f) Does any insurance company or consulting firm claim you owe such company any money representing premiums collected by you and not remitted? ____ If yes, give full particulars _____.

6. Does the applicant know that it is unlawful for any consultant or any agency or sales organization with which he or she is connected, to receive any part of any commissions or compensation paid by an insurer or agent in connection with the sale or writing of any insurance which is within the subject matter of any service for which such consultant has contracted to receive a fee? ____

Part II

Applicant must read the following very carefully:

- 1. I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
- 2. I further certify that I grant permission to the Commissioner, Director or Superintendent of Insurance, or other appropriate party in each jurisdiction for which this application is made to verify information with any federal, state or local government agency, current or former employer, or insurance company.
- 3. I further certify that, under penalty of perjury either a.) I have no child-support obligation, or b.) I have a child-support obligation and I am currently in compliance with that obligation.
- 4. I authorize the jurisdiction to give any information concerning me, as permitted by law, to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information.
- 5. I acknowledge that I am familiar with the insurance laws and regulations of the jurisdiction to which I am applying for licensure.
- 6. I further certify that the Department of Insurance will be notified within 30 days of any change of address (business or residence) from that set forth in this application.

If applicant is a corporation, president and secretary must sign. If applicant is a partnership, all partners must sign.

Name of Applicant _____

Signed: _____	Title _____
_____	Title _____
_____	Title _____
_____	Title _____

Date: _____, 20____.